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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/484,344	01/18/2000	M. Rene Chauvin	9320.95US01	9589

23552 7590 01/15/2003

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/484,344

Applicant(s)

CHAUVIN, M. RENE

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/11/02, 7/11/02, 4/17/02 and 3/26/02.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 42-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 17 April 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***Drawings***

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on April 17, 2002 have been approved.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fixed window panel being connected to the frame at only the inner surface of the fixed window panel must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It should be noted that figure 4 only shows the frame surrounding an edge of the fixed window panel.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: there is no description of figure 4 in the substitute specification submitted July 11, 2002. Although the applicant has requested that the amendment of April 17, 2002 be entered, the changes requested in the amendment of April 17, 2002 cannot apply to subsequently filed responses since the amendment of April 17, 2002 only refers to previously filed responses. Therefore, if the applicant wishes to have a description of new figure 4 entered, then the applicant must either file a new substitute specification with the

description of figure 4 or submit another amendment requesting that the appropriate description be entered to the substitute specification filed July 11, 2002.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 42-53 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The recitations of the fixed window panel being fixed to the frame at only the inner surface of the fixed window panel (see claim 42, lines 10-11 and claim 47, lines 9-10) present new matter. Although the applicant has argued that the specification supports the concept of the fixed window panel being fixed to the frame at only the inner surface of the fixed window panel, these arguments are not found persuasive. The original disclosure teaches that the fixed window panel is mounted along its edges to the frame. See figure 2, wherein the fixed window panel 222 is shown attached to the frame 221 without any connection devices and without the use of any hidden lines showing that the perimeter of the fixed window panel extends beyond the perimeter of the opening. If the fixed window panel were only fixed to the frame only at the inner side of the fixed window panel, the perimeter of the fixed window panel would extend beyond the perimeter of the frame. Therefore, figure 2 teaches the mounting of the fixed window panel to the frame along the edges of the fixed window panel and does not support the new matter. Additionally, the specification,

on lines 10-13 of page 7, describes the frame as surrounding the fixed window panel which agrees with the way the invention is shown in figure 2. The recitation that there is no visible external frame on line 17 of page 7 does not make sense because the frame 221 is clearly visible where the frame engages the movable window panel. Even if the fixed window panel were only mounted to the frame only at the inner surface of the fixed window panel, the frame 221 would still be visible through the fixed window panel. Therefore, the applicant's conclusion is a *non sequitur*. Finally, it should be noted that a sealing member or a covering could be used to cover the frame 221 when the fixed window panel is attached to the frame along the edges of the fixed window panel.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. in view of Ojanen et al. Jackson et al. discloses a door for an automobile vehicle, comprising a lower part (not numbered, but seen in figure 2) without guide means for moving a window, and an upper door part (not numbered, but seen in figure 2) that comprises a window assembly including fixed window panel 68 having an inner surface that faces an interior of the vehicle upon which the door is to be mounted and at least one movable window panel 56 adjacent the fixed window panel and adapted to

Art Unit: 3634

open and close an opening in the upper door part, a frame 44, 46 connected to and supporting the window assembly, and support elements, 42 and the portion of the frame 44 extending orthogonally forward from the support element 42, connected to the frame, the support elements movably supporting the movable window panel such that the movable window panel is movable so as to open and close the opening, and further including means 100, 102, 104 for fixing the lower and upper parts to each other at an assembly area of the door, the assembly area extending approximately horizontally and corresponding to a top of the lower part and a bottom of the upper part. Jackson et al. is silent concerning the frame connected to the fixed window panel at only the inner surface of the fixed window panel.

However, Ojanen et al. discloses an automobile comprising an upper door part (not numbered, but seen in figure 1) comprising a window assembly including fixed window panel 18 having an inner surface that faces an interior of the vehicle upon which the door is to be mounted and at least one movable window panel 14 adjacent the fixed window panel and adapted to open and close an opening in the upper door part, a frame 26 connected to and supporting the window assembly, the frame 26 is connected to the fixed window panel 12 at only the inner surface of the fixed window panel.

It would have been obvious to one of ordinary skill in the art to mount the window panel of Jackson et al., as taught by Ojanen et al., to improve the aerodynamics of the vehicle.

Art Unit: 3634

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Neaux is cited for disclosing a flush mounted window system.

***Response to Arguments***

Applicant's arguments filed October 11, 2002, July 11, 2002, April 16, 2002 and March 26, 2002 have been fully considered but they are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
January 13, 2003